



Pacific PEER

Public Employees for Environmental Responsibility

November 3, 2021

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: PRIVACY ACT AND FREEDOM OF INFORMATION REQUEST

Dear FOIA Officer:

On October 27, 2021, during an oversight hearing on the implementation of the Toxic Substances Control Act (TSCA) before the Environment and Climate Change Subcommittee of the House Energy and Commerce Committee, Dr. Michal Freedhoff, the U.S. Environmental Protection Agency (EPA) Assistant Administrator for the the Office of Chemical Safety and Pollution Prevention (OCSPP), testified about staff shortages hampering risk assessments for both new and existing chemicals required under the 2016 TSCA amendments (the Frank Lautenberg Act). She also testified that EPA was acting to address these scientific staff shortages in the FY 2022 budget.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER), requests information concerning the nature and extent of these staff shortages and agency plans to remedy these shortages. Specifically, we request the following:

- 1) The latest EPA analysis of scientific staff shortages affecting the New Chemicals Division and Existing Chemicals Division, respectively, including information delineating the scientific specialties lacking within each;
- 2) The latest OCSPP analysis detailing specifically how these shortages are adversely affecting chemical assessments required under TSCA;
- 3) The current EPA plan detailing how and in what time frame OCSPP intends to remedy these shortages;
- 4) The current EPA plan for retaining of scientists now working or recruited to work on TSCA chemical assessments within OCSPP as well as documents indicating the extent to which this professional retention plan has been implemented and/or the schedule under which it will be implemented; and
- 5) The number of staff (full-time equivalents) and estimates of costs to OCSPP to currently operate the system that enables chemical companies to track the progress of their products as they move through the approval process, including the online tool referred to internally as the “pizza tracker.”



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For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)). Disclosure of these records is in the public interest for the following reasons:

1. The records concern the operations or activities of the Government.

The FOIA request is, by its terms, limited to identifiable activities of EPA employees and one of its divisions, thus, the requested records concern operations or activities of the Government.

2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.

The requested documents will enable the public to see how well hazard assessments for both new and existing chemicals are implemented. This request seeks documents relating to a major impediment to the effectiveness of this program identified in Congressional testimony by a senior EPA official. The request seeks detail and clarity so that the public has a deeper understanding of the magnitude of this impediment and the status of plans to remedy it that goes beyond the conclusory Congressional testimony.

3. The release of these requested records will contribute significantly to public understanding of the governmental activities.

The OCSPP hazard identifications and risk conclusions which are the subject of this request concern the risk assessments used to compile Safety Data Sheets. These Safety Data Sheets are, in turn, used by employers and workers when making decisions regarding mitigation of risks in the workplace. Occupational diseases caused by industrial chemicals result in an estimated annual 50,000 to 70,000 deaths, and 350,000 cases of illness in the United States.

The nature of the information should allow the public to better understand to what extent these risks are being accurately and comprehensively assessed – matters bearing directly on key public health protections. In addition, the information will help the public more clearly see to what extent the 2016 TSCA amendments are being successfully implemented, the very topic of the above-referenced Congressional oversight hearing.

The information will also enable the public to ascertain whether the EPA proposed remedies to the identified staff shortages are likely to work and in what time frame.

PEER intends to provide the requested information to members of Congress and its relevant committees. We also intend to disseminate it to the general public though —



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- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, there has already been extensive media coverage on the adequacy of chemical risks assessments now being conducted by OCSPP.

4. *Disclosure would not serve a commercial interest of the requestor.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (510) 213-7028. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch
PEER Pacific Director